

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

| | | |
|-------------------------------|---|---------------------|
| JOHNAS ORTIZ, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Civ. No. 06-206-SLR |
| |) | |
| THOMAS LUNT, RUSSELL BUSKIRK, |) | |
| and DIRECTOR OF THE DELAWARE |) | |
| DEPARTMENT OF HEALTH AND |) | |
| SOCIAL SERVICES, |) | |
| |) | |
| Defendants. |) | |

ORDER

At Wilmington this 22^d day of May, 2006, plaintiff having satisfied the filing prerequisites of 28 U.S.C. § 1915A; and the court having identified cognizable claims within the meaning of 28 U.S.C. § 1915A(b);

IT IS ORDERED that:

1. The clerk of the court shall cause a copy of this order to be mailed to plaintiff.

2. The letter/motion for an order from the court suspending payment of legal supply copy fees (D.I. 5) is DENIED WITHOUT PREJUDICE. Plaintiff's motion indicates that he receives access to the law library at the Howard R. Young Correctional Institution, albeit, for time periods per month shorter than he desires.

IT IS FURTHER ORDERED that:

1. Pursuant to Fed. R. Civ. P. 4(c)(2) and (d)(2),

plaintiff shall complete and return to the clerk of the court an original "U.S. Marshal-285" form for **defendants Thomas Lunt, Russell Buskirk, and the Director for the Delaware Department of Health and Social Services**, as well as for the Attorney General of the State of Delaware, 820 N. FRENCH STREET, WILMINGTON, DELAWARE, 19801, pursuant to DEL. CODE ANN. tit. 10 § 3103(c). Plaintiff has provided the court with one copy of the complaint (D.I. 2) for service upon each defendant. Plaintiff is notified that the United States Marshal will not serve the complaint until all "U.S. Marshal 285" forms have been received by the clerk of the court. Failure to provide the "U.S. Marshal 285" forms for each defendant and the attorney general within 120 days of this order may result in the complaint being dismissed or defendants being dismissed pursuant to Federal Rule of Civil Procedure 4(m).

2. Upon receipt of the form(s) required by paragraph 1 above, the United States Marshal shall forthwith serve a copy of the complaint (D.I. 2), this order, a "Notice of Lawsuit" form, the filing fee order(s), and a "Return of Waiver" form upon each of the defendants so identified in each 285 form.

3. Within **thirty (30) days** from the date that the "Notice of Lawsuit" and "Return of Waiver" forms are sent, if an executed "Waiver of Service of Summons" form has not been received from a defendant, the United States Marshal shall personally serve said defendant(s) pursuant to Fed. R. Civ. P. 4(c)(2) and said

defendant(s) shall be required to bear the cost related to such service, unless good cause is shown for failure to sign and return the waiver.

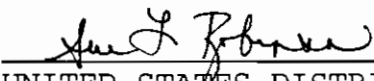
4. Pursuant to Fed. R. Civ. P. 4(d)(3), a defendant who, before being served with process timely returns a waiver as requested, is required to answer or otherwise respond to the complaint within **sixty (60) days** from the date upon which the complaint, this order, the "Notice of Lawsuit" form, and the "Return of Waiver" form are sent. If a defendant responds by way of a motion, said motion shall be accompanied by a brief or a memorandum of points and authorities and any supporting affidavits.

5. No communication, including pleadings, briefs, statement of position, etc., will be considered by the court in this civil action unless the documents reflect proof of service upon the parties or their counsel.

6. **NOTE: ***** When an amended complaint is filed prior to service, the court will **VACATE** all previous service orders entered, and service **will not take place**. An amended complaint filed prior to service shall be subject to re-screening pursuant to 28 U.S.C. §1915(e)(2) and § 1915A(a). *******

7. **NOTE: ***** Discovery motions and motions for appointment of counsel filed prior to service will be dismissed without

prejudice, with leave to refile following service. ***


UNITED STATES DISTRICT JUDGE